

Appln No. 09/765,535

Amdt date June 30, 2004

Reply to Office action of December 31, 2003

REMARKS

Claims 1 - 20 are now pending in this application. Claims 1-13 and 15-20 have been amended. The amendments find full support in the original specification, claims, and drawings. No new matter has been added. In view of the above amendments and remarks that follow, reexamination, reconsideration, and an early indication of allowance of claims 1 through 20 are respectfully requested.

The Examiner rejects claims 1-13 and 17-20 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicant respectfully traverses these rejections.

Claims 1-13 and 17-20 have been amended for clarity with respect to the § 101 issue, but it is not believed that such amendments affect the scope of the claims, as it is believed that such amendments were already, at least implicitly, in the original claims.

Claims 1-13 and 17-20, as amended, are directed to a method performed by a computer for calculating travel costs for a user. Computer methods are generally patentable, and § 101 analysis of such claims is concerned with whether the claimed process has been reduced to some practical application of the abstract idea or mathematical algorithm, thereby rendering the invention "useful," e.g. the invention achieves a useful, concrete and tangible result. See generally, *State Street Bank & Trust Co. v. Signature Financial*, 149 F.3d 1368, 1373-77 (Fed. Cir. 1998); *AT&T Corp v. Excel Communications Inc.*, 172 F.3d 1352, 1356-58 (Fed. Cir. 1999), cert denied 120 S.Ct. 368 (1999) (applying holding of *State Street* to method claims); MPEP IV, B, 2(b)(ii). Claims 1-13 and 17-20, which are method claims, are literally within the statutory subject matter. See 35 U.S.C. § 101, §100(b) (defining "process" as meaning "process, art or method"); *State Street*, 149 F.3d at 1372 ("for the purposes of a

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§ 101 analysis, it is of little relevance whether [a claim] is directed to a 'machine' or a 'process,' as long as it falls within at least one of the four enumerated categories of patentable subject matter, 'machine' and 'process' being such categories."); *AT&T Corp*, 172 F.3d at 1357 ("Whether stated implicitly or explicitly, we consider the scope of § 101 to be the same regardless of the form - machine or process - in which a particular claim is drafted.") Furthermore, as the Examiner agrees, "the claimed invention produces a useful, concrete and tangible result." (Office action, p. 3). Therefore, Claims 1-13 and 17-20 present patentable subject matter.

According to the Federal Circuit, the only exceptions to the statutory categories of patentable subject matter are "laws of nature, natural phenomena, and abstract ideas," known as the "mathematical algorithm" exception. *State Street*, 149 F.3d at 1373, citing *Diamond v. Diehr*, 450 U.S. 175. Claims 1-13 and 17-20 do not fall within this exception. However, even if a claim falls within the "mathematical algorithm" exception, it presents patentable subject matter where it claims a practical application of an abstract idea which produces a useful, concrete and tangible result. *Id.*, 149 F.3d at 1373; see also *In re Alappat*, 33 F.3d 1526, 1544 (Fed. Cir. 1994); *Arrhythmia Research Technology Inc. v. Corazonix Corp.*, 958 F.2d 1053 (Fed. Cir. 1992); *In re Iwahashi*, 888 F.3d 1370, 1374 (Fed. Cir. 1989) ("claim 1 is directed to a machine programmed with . . . software and admittedly produces a 'useful, concrete, and tangible result' . . . This renders it statutory subject matter."). The Federal Circuit held that "[t]o be patentable an algorithm must be applied in a 'useful' way." *State Street*, 149 F.3d at 1373. For example, in *State Street* the claimed data processing system for implementing a financial portfolio structure was held to be statutory subject matter because it

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constituted a "practical application of a mathematical algorithm, . . . [by] producing 'a useful, concrete and tangible result.'" *Id.* at 1373. Likewise, here, as the Examiner admits the claimed invention produces a useful, concrete and tangible result, and, therefore, the claimed invention is not an unpatentable abstract idea.

However, the Examiner claims that the invention as a whole is not within the technological arts because the claims fail to recite the use of a technology (e.g. a computer system). (Office action, p. 3). Applicant disagrees with the Examiner that recitation of a use of a technology is a requirement under the § 101 analysis, which is outlined above. However, Applicant has now amended claims 1-13 and 17-20 to add a recitation of the use of a computer system for performing the claimed method. Accordingly, Claims 1-13 and 17-20 are in condition for allowance.

The Examiner also rejects claims 1-10 and 12-20 under 35 U.S.C. §103(a) as obvious and unpatentable over Iyengar et al. (US 6,360,205), in further view of Jafri et al. (US 5932,454). Applicant respectfully traverses these rejections.

Iyengar teaches a method for booking a reservation for one travel product, namely airline flights. In Iyengar, desired travel information is collected from a user. The information collected relates to only one travel product. The collected information is then used to search a number of reservation information sites and display the results on a user's machine. Searches for other travel products, such as hotel and car rental are done separately and independent from searches and calculations for airline flights or each other. If Iyengar contains a calculation step, which is not clear and is not admitted, it calculates the cost of one travel product, such as, for example, an airline flight. (See Iyengar, Fig. 10).

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More specifically, in Iyengar, the itinerary for which the cost is calculated consists of only one travel product, such as, for example, airline flights. (See Iyengar, Fig. 24). "Once a preferred flight is selected, the user is forwarded to the selected target machine to complete the booking process in step 2072." (Iyengar, 18:53-55). Iyengar does not teach a calculating step wherein cost for a plurality of travel products, such as, for example, a flight, a hotel, and a car reservation, is calculated.

Claims 1, 12, 16 and 17, on the other hand, call for a calculation step which determines the cost of desired travel products for a plurality of travel products. In the information request step, "the user is prompted to enter desired travel product information for a plurality of travel products." (emphasis added). This information is then received, and the received information is then used in the calculation step to "determine the cost of the desired travel products." By way of an example, during the information request step, the user can be prompted to enter information for a desired hotel, car, and flight. This information can then be received, and the cost of an itinerary consisting of the desired hotel, car, and flight reservations can be determined during the calculation step.

Iyengar, on the other hand, discloses a method or system for reserving one travel product. After disclosing a reservation system for airline flights, Iyengar teaches that "[o]ther applications can be implemented incorporating the principles of the present invention including reserving vehicles, product and service purchases and leasing of products." (Iyengar, 22:16-19). Iyengar does not teach a reservation system wherein "the user is prompted to enter desired travel product information for a plurality of travel products," and, accordingly, Iyengar does not teach "a

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calculation step, wherein the received information is used to search through a database to determine the cost of the desired travel products."

Claim 14, likewise, discloses a method for determining travel product prices for a plurality of travel products: "transmit the airplane flight information, hotel information, and car rental information to the user terminal." As explained above, Iyengar is again limited to only one travel product.

To make up for this deficiency, the Examiner states that "Jafri discloses calculating travel costs using received information from databases," citing to Jafri, column 3, lines 44-52. (Office Action, p. 4). Jafri reference, however, does not disclose calculating travel costs for a plurality of travel products either.

Jafri teaches a method, and a reservation system, for building a travel itinerary for a multiple-segment travel request, wherein a user specifies, in sequence, multiple legs of a desired trip. Multiple itineraries for one travel product (such as a flight) are built, and after a user books one of the presented itineraries, the user can then also select a car and/or a hotel. Unlike the rejected claims of the present invention, the reservation software of Jafri is used to reserve an itinerary for one travel product at a time. "The user . . . specifies in sequence each leg of the desired trip . . . After the user has entered the last leg of the trip . . . [t]he program . . . completes processing of itineraries, prices the itineraries, and displayed the priced itineraries for selection by the user. The program then uses profile values to offer car and hotel selections. The user may then book cars and hotels through the same kind of point and click actions." (Jafri, 2:44-60)(emphasis added). Figure 4A further illustrates this sequence. In step 415, various itineraries (for one travel

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product, such as an airplane flight) are displayed to the user. Then, if the user books a selected itinerary in step 421, the user is presented with an option to proceed to booking a car/hotel/etc. (Jafri, Fig. 4A).

Thus, neither of the prior art references teach a method for calculating travel costs associated with multiple travel products. In particular, neither of the prior art references teach a calculation step, wherein a cost for a plurality of travel products is determined. This is significant because pricing of an itinerary consisting of a plurality of travel products, such as, for example, a flight, a car, and a hotel, may better enable the user to select the most overall cost efficient travel arrangements, even when none or less than all of the individual travel products selected are at the lowest available price for that travel product. Therefore, claims 1, 12, 14, 16 and 17 are in condition for allowance.

Claims 2 - 11, 13, 15, 18 - 20 are also in condition for allowance because they depend on allowable base claims and for the additional limitations that they contain.

The Examiner also rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over Iyengar and Jafri, in further view of DeLorme et al. (US 5,948,040). Applicant respectfully traverses this rejection.

As stated above, neither Iyengar nor Jafri teach a method for requesting information and determining costs for a plurality of travel products. DeLorme does not disclose this element either. Accordingly, claim 11 is in condition for allowance.

As discussed above, it is believed that all of the claims are in condition for allowance and reconsideration of the Office Action dated December 31, 2003 is respectfully requested.

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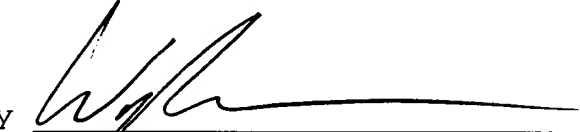
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Respectfully submitted,

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